

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

ALLISON HAMES,)	
)	
)	
Plaintiff,)	
)	
v.)	No. 18-2121
)	
SUNTRUST BANK;)	
CITIBANK, N.A.;)	
and JEFFREY CRANFORD)	
)	
)	
Defendants.)	
)	
)	

ORDER

Before the Court is Plaintiff Allison Hames' September 11, 2018 Motion for Default Judgment as to Jeffrey Cranford. (ECF No. 36.) Plaintiff filed a Complaint against Defendants Suntrust Bank, Citibank, N.A., and a fictitious party labeled John Doe in the Tennessee Circuit Court for the Thirtieth Judicial District at Memphis. (ECF No. 1.) On January 20, 2018, Defendants Suntrust Bank and Citibank, N.A. removed to this Court on the basis of diversity. (Id.) On May 21, 2018, Plaintiff filed an Amended Complaint identifying the fictitious party as Jeffrey Cranford. (ECF No. 20.)

Plaintiff's Amended Complaint brings four claims against Defendants: (1) breach of contract and breach of fiduciary duty; (2) conversion; (3) "fraud and/or misrepresentation"; and (4) "other reckless and/or negligent actions and/or omissions". (ECF No. 20 ¶¶ 18-38.) Plaintiff seeks \$150,000 in compensatory damages from all Defendants, and \$1,000,000 in punitive damages from Cranford.

Defendant Cranford was properly served on June 26, 2018. (Proof Serv., ECF No. 31-1.) The Summons instructed Cranford to serve an answer on Plaintiff or her attorney within twenty-one days after service. (Cranford Summ., ECF No. 30.) Cranford has not filed any responsive pleading or appeared in this action. On September 10, 2018, Plaintiff filed a Motion for Entry of Default against Cranford under Federal Rule of Civil Procedure 55(a). (Mot. Def., ECF No. 34.) On September 10, 2018, the Clerk entered a Default against Cranford under Rule 55(a). (Clerk's Ent. Def., ECF No. 34.)

On September 11, 2018, Plaintiff filed a Motion for Default Judgment as to Defendant Jeffrey Cranford under Federal Rule of Civil Procedure 55(b)(2). (Mot. Def. Judg., ECF No. 36.) In the affidavit attached to her Motion, Plaintiff asks that the Court order Cranford to pay "\$1,150,000.00 (\$150,000.00 in compensatory damages and \$1,000,000.00 in punitive damages) plus interest from

the date of judgment as provided by law, together with the costs of this action." (ECF No. 36-1 at 127.)¹

Plaintiff offers no evidence to support the damages she seeks. Even in the context of a default judgment, the Court has an obligation to ensure that there is a legitimate basis for an award of damages. See Hitachi Med. Sys. v. Lubbock Open MRI, 2010 WL 5129311, at *2 (N.D. Ohio Dec. 10, 2010) (citations omitted). Damages may only be awarded on a default judgment when the record adequately supports the award. See id.; Mill's Pride, L.P. v. W.D. Miller Enters., LLC, 2010 WL 987167, at * 1 (S.D. Ohio Mar. 12, 2010) ("[T]he party moving for a default judgment must present some evidence of its damages.").

In her Affidavit in Support of Default Judgment, Plaintiff cites her Amended Complaint without explanation. Assuming Plaintiff bases the damages she seeks on the allegations in her Amended Complaint, her basis is invalid. Rule 8(b)(6) of the Federal Rules of Civil Procedure provides that the effect of failing to deny an allegation in a complaint is an admission unless the allegation is "one relating to the amount of damages." Plaintiff cannot rely solely on the allegations in the Amended Complaint as evidence of damages. See Dirs. of Ohio Conference of Plasterers & Cement Masons Combined Funds, Inc. v. Indus.

¹ Pin citations to the record refer to the CM/ECF PageID number.

Contracting Co., 2017 WL 6028247, at *2 (N.D. Ohio Dec. 4, 2017) ("Well-pleaded allegations in the complaint as to liability are taken as true when a defendant is in default, but not as to damages.").

Plaintiff has submitted no documentary or other proof supporting the amount of damages, costs, and interest. Plaintiff's Motion for Default Judgment as to Jeffrey Cranford is DENIED WITHOUT PREJUDICE.

So ordered this 4th day of October, 2018.

s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE